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LAW OFFICES

SHOOK, HARDY & BACON L.L.P.

BUENOS AIRES
GENEVA
HOUSTON
KANSAS CITY
LONDON

HAMILTON SQUARE
600 14TH STREET, NW, SUITE 800
WASHINGTON, D.C. 20005-2004
TELEPHONE (202) 783-8400 ▮ FACSIMILE (202) 783-4211

MIAMI
OVERLAND PARK
SAN FRANCISCO
TAMPA
ZURICH

FOR PUBLIC INSPECTION

February 28, 2001

By Hand Delivery

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RE: CC Docket No. 01-9

Dear Ms. Salas:

Enclosed are the following: (1) the original and two copies of the Reply of Network Access Solutions marked "Confidential-Not for Public Inspection" on each page; and (2) one copy of the Reply of Network Access Solutions marked "For Public Inspection" on each page. The two versions of the Reply are identical except that certain confidential information has been deleted from the Public version.

Sincerely,

Rodney L. Joyce

Enclosures

FOR PUBLIC INSPECTION

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:	)	
	)	
Application by Verizon New England, Inc.,	)	
Bell Atlantic Communications, Inc. (d/b/a	)	
Verizon Long Distance), NYNEX Long	)	CC Docket No. 01-9
Distance Company (d/b/a Verizon Enterprise	)	
Solutions), and Verizon Global Networks,	)	
for Authorization to Provide In-Region,	)	
InterLATA Services in Massachusetts	)	

REPLY OF
NETWORK ACCESS SOLUTIONS

Network Access Solutions ("NAS") files this Reply in order to provide the Commission with two additional pieces of information discussed by the Justice Department ("DOJ") in its Comments. Although the DOJ agreed with NAS that Verizon's performance in installing DSL loops is unacceptable even if the Commission were to accept the company's performance calculations,[1] it also noted that Verizon's performance would be even worse if it turns out that CLEC customers cancel a large percentage of DSL loop orders because they get tired of waiting for the loops to get installed,[2] or if CLECs can cast doubt on Verizon's claim that CLECs accept a large percentage of DSL loops knowing that they do not work.[3] DOJ suggested that CLECs may want to submit information on those two matters in their Replies.[4]

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1 DOJ Evaluation at 8 (Feb. 21, 2001) ("a number of questions . . . remain as to whether Verizon has adequately demonstrated its ability to provide nondiscriminatory access to DSL loops. For certain important [performance measures], Verizon's reported performance still falls below prescribed standards").

2 *Id.* at 9 n. 29.

3 *Id.* at 10-11.

4 *Id. at 9 n. 29, 10-11, 15 n. 61.*

First, we inform the Commission that during the September – November period relevant here, NAS customers canceled [redacted] DSL loop orders because they got tired of waiting for Verizon to install the loops. While Verizon installs a smaller percentage of loops on-time than is reasonable (PR 3-10 and PR-4-14 through PR-4-18) even accepting Verizon's calculations, those calculations overstate on-time installation performance, as the DOJ noted, since Verizon does not include cancelled orders in the denominator when calculating its on-time installation performance.[5] To help the FCC determine the extent to which Verizon had improperly inflated its on-time loop installation performance under PR-3-10 and PR-4-14 through PR-4-18, the DOJ suggested that interested parties consider providing the agency with data showing the percentage of cancelled loop orders during the September-November period.[6] NAS has no knowledge about how many orders placed by other CLECs were cancelled. But the company knows that the [redacted] NAS DSL loop orders that were cancelled during the September – November period because the NAS customer got tired of waiting for Verizon to install the loop constitute [redacted] percent of the total number of DSL loop orders actually installed during those months. Each of the [redacted] cancelled orders is listed by order number on Att. A. As can be seen, most NAS customers waited for more than two months before they cancelled their order, and 95 percent of the customers waited at least a month before canceling. If these cancelled orders are included in the denominator when calculating Verizon's on-time installation performance to NAS, Verizon-MA's record of installing loops on-time falls to about [redacted] percent (for both PR-3-10 and PR-4-14 thru PR-4-18) from the already unacceptable levels that Verizon had calculated, and it falls to

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5 *Id.* at 9 n. 29.

6 *Id.*; *id.* at 15 n. 61.

less than [redacted] percent if the two additional adjustments discussed by NAS in its Opposition are made.[7]

Second, we inform the FCC that improper acceptance testing by NAS was responsible for none of the troubles that NAS reported within 30 days of loop installation in the September-November period. In an effort to make it appear that CLECs are to blame for the unacceptably high percentage of trouble reports on DSL loops within 30 days of installation (PR-6-01), Verizon asked the FCC to let it change the way its performance under PR-6-01 is calculated by excluding about half of the reported troubles. According to Verizon, it would be appropriate to exclude those specific trouble reports because the CLECs had accepted those particular loops in the acceptance testing process even though they had reason to know the accepted loops would not work.[8] In its Comments, DOJ questioned whether it would be fair for the FCC to permit exclusion of these trouble reports given that two of the three DSL service providers still operating in Massachusetts already have disputed Verizon's assertion that they were to blame for having accepted non-working loops in the acceptance testing process.[9] In this Reply, NAS – the third of the three CLECs still focused entirely on providing DSL service in Massachusetts – likewise disputes Verizon's assertion that NAS is to blame for having accepted non-working loops in the acceptance testing process. Attached as Att. B are contemporaneous notes that NAS

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[7] According to Verizon's own calculations, the company installed, during the three month period relevant here, just [redacted] percent of NAS's DSL loops within six days (PR-3-10) and just [redacted] percent of NAS's DSL loops by the FOC date (PR-4-14 through PR-4-18). *See* NAS Opp. at 3, 9 (Feb. 6, 2001). Moreover, Verizon inflated its on-time performance under each of these measures by at least five percentage points for the reasons that NAS discussed in its Opposition. *Id.* at 3-7 ([redacted] of NAS loops installed within the six-day interval after adjusting for two unfair Verizon assumptions); *Id* at 9-10 ([redacted] of NAS loops installed by the FOC date after adjusting for two unfair Verizon assumptions). If the adjustment for cancelled loop orders discussed in the text above is applied to these already adjusted figures, Verizon's performance on both PR-3-10 and PR-4-14 through PR-4-18 falls to about [redacted] percent.

[8] Verizon Supp. at 21, 24.

[8] DOJ Eval. at 11 (The question of whether Verizon may exclude trouble reports based on its assertion that CLEC acceptance testing is to blame for the trouble report is "a factual dispute that remains unresolved").

made concerning each of the trouble reports that Verizon seeks to exclude from the numerator of its calculation of its PR-6-01 performance.[10] The notes demonstrate that NAS accepted none of these loops with any reason to know it did not work. Instead, the notes prove (a) that Verizon itself had accepted some of the loops as working even though NAS had rejected them during acceptance testing; (b) that NAS was forced to open some trouble tickets because NAS could not locate the loop when, after accepting the loop, it arrived at the customer premises to install service, because the Verizon installer had failed to mark the loop as Verizon's procedures require; and (c) that the loop worked during acceptance testing but quit working later because of Verizon's own actions (e.g., disconnection of the loop or hiding a defective loop by conducting acceptance testing from a location other than the customer's NID).[11] Because there is no merit in Verizon's claim that about [redacted] of the trouble reports filed within 30 days of installation on NAS loops are NAS's fault, Verizon's performance under PR-6-10 plainly should be calculated in the manner required by the Massachusetts performance assurance plan. Doing so shows that Verizon's performance under PR-6-01 is totally unacceptable (e.g., [redacted] of NAS loops, vs. 3.1% of Verizon loops, experiencing troubles within 30 days of installation under Verizon's own calculations).

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[10] *See* Verizon 's Jan. 16, 2001 Supp., Lacouture/Ruesterholz Aff., Att. Y at 13 and 24 (listing each trouble on NAS loops within 30 days of installation along with Verizon's speculation about whether each listed trouble was Verizon's fault).

[11] More broadly, the attached contemporaneous notes also illustrate what a nightmare it has become to get Verizon to install any loop in a timely fashion.

CONCLUSION

The Commission should deny Verizon's application to provide interLATA service in Massachusetts for the reasons discussed in NAS's opposition to Verizon's initial application and to Verizon's January 2001 Supplement and for the additional reasons discussed above.

Respectfully submitted,

NETWORK ACCESS SOLUTIONS CORPORATION

By: _____

Rodney L. Joyce
SHOOK, HARDY & BACON LLP
600 14th Street, N.W., Suite 800
Washington, D.C. 20005-2004
(202) 783-8400
Its Attorneys

Donald H. Sussman,
Vice President of Regulatory Affairs/Vendor Relations
Network Access Solutions Corporation
13650 Dulles Technology Drive
Herndon, VA 20171
(703) 793-5102

Dated: February 28, 2001

Att. A

(All confidential information -- not included.)

Att. B

(All confidential information – not included.)

FOR PUBLIC INSPECTION

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply of Network Access Solutions Corporation has been sent today, by Federal Express, to each of the following persons for priority delivery tomorrow.

Cathy Carpino
Massachusetts Department of
Telecommunications and Energy
One South Station
Boston, MA 02110

Josh Walls
U.S. Justice Department
Antitrust Division
Telecommunications Task Force
1401 H Street, N.W., Suite 8000
Washington, D.C. 20005
(by email and First Class Mail)

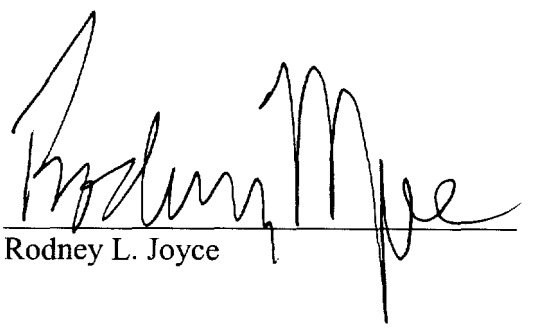
Mark Evans
Kellogg, Huber, Hansen,
Todd & Evans, PLLC
1301 K Street, N.W.
Suite 1000 West
Washington, D.C. 20005

Mike Glover
Verizon
1320 North Courthouse Road
Arlington, VA 22201

James Pachulski
TechNet Law Group, P.C.
1100 New York Avenue, N.W.
Suite 365
Washington, D.C. 20005

Bruce Beausejovr
Verizon New England
185 Franklin Street
Room 1403
Boston, MA 02110

Susan Pie
Federal Communications Commission
Common Carver Bureau
Room S-C224
Washington, D.C. 20554
(by hand)



Rodney L. Joyce

Dated: February 28, 2001